

BUILDING ORDINANCE FOR THE TOWN OF SUTTON

As Voted and Passed at Town Meeting, March 9, 1965, and Amended at Town Meeting, March 6, 1973; March 11, 1980; March 11, 1987; March 9, 1988, March 14, 2000.

For the Protection and Direction of the Location and Construction of Buildings and Structures in the Town of Sutton New Hampshire

ARTICLE I

This ordinance is established and governed by the laws of the State of New Hampshire, Chapter 31, Sections 60-89, New Hampshire Revised Statutes Annotated, and Chapter 156, Sections 1-5, New Hampshire Revised Statutes Annotated, and RSA 156-A.

ARTICLE II

- A. Before construction, changing the use of, or altering any building, including accessory buildings or changing the use of any premises, application shall be made to the Board of Selectmen or Building Inspector for a building permit. The application shall indicate the exact location of the proposed construction, alteration or change of use and shall include a plot plan, showing the proposed location and dimensions, height of the building and the proposed use. Within ten (10) days after receipt of the application, the Town shall issue a building permit if the application complies with the requirements of this resolution and the application is accompanied by the proper fee.
- B. 1. No building to be used as a dwelling for commercial purposes shall hereafter be constructed, moved or altered except in conformity with the regulations specified for the zone in which such property is situated; not shall any outside construction be done without a permit to be issued by the Board of Selectmen or a Building Inspector. Normal exterior and interior repairs, restoration or improvements which do not alter the principal use of a building, and have an estimated value of not over one thousand dollars (\$1,000), shall not be deemed to require a building permit."

Building permits are required for upgrades of siding, such as from wood to vinyl or metal clapboards, for metal roofing replacing asphalt roofing or shingles, for upgrades to electrical service, for upgrades or changes to heating systems, for installation of air conditioning systems, for docks, storage sheds, gazebos, in-ground and above-ground pools, hot tubs and the like."

- 2. After issuance of the building permit, construction must be commenced within six (6) months and the exterior completed within two (2) years, except that said Board may extend the time upon application. A duly enacted change in the zoning applicable to said

dwelling, the effect of which is to prohibit the proposed use, shall automatically terminate the effectiveness of said building permit and void said permit unless substantial construction has already commenced."

- C. No permit shall be granted unless the builder will meet the following requirements:
1. Every dwelling shall have a minimum of two (2) easily accessible exits, windows excluded. Any building to be erected or altered for use as rented apartments shall have a minimum of two (2) readily accessible exits, windows excluded, from each apartment. One of the exits may be a balcony or uncovered porch not more than twenty (20) feet above ground level.
 2. Chimneys shall be constructed of stone, brick, cement, or cinder blocks from the ground upward, and shall be internally lined with tile. Any other chimney construction that is approved by the Board of Underwriters shall be permitted.
 3. Thimbles: No wall paper or other combustible material shall be laid over any thimble or thimble hole in any chimney.
 4. No building of wood or other combustible material shall be erected without providing fire stops in every combustible wall or partition, at every floor and between floor joists at every partition.
 5. Dwellings shall be framed according to good building practices and outside walls shall be covered with permanent materials customarily used, such as wood or fire-resistant shingles, sidings, clapboards, brick, stucco, concrete, or cinder blocks. Materials customarily painted shall be painted or otherwise finished.
 6. All sanitary systems shall be constructed and maintained in accordance with New Hampshire Water Supply and Pollution Control Commission.
 7. Every dwelling or residence shall have a first-floor space designed and used for living quarters of not less than five hundred (500) square feet per family unit exclusive of basements, utility room, porches, garage, breezeways, terraces, attics, or partial stories.
 8. All electrical wiring shall conform to approved methods and practices for safety to life and property. Compliance with the National Electric Code as published by the National Board of Underwriters or other code designated by the Building Inspector shall be prima facie evidence of such approved methods and practices.

9. Foundations: All structures shall be set on solid foundations of brick, stone, cement or other acceptable materials.
10. All buildings must comply with the New Hampshire Energy Code as set forth in the N.H. Revised Statutes Annotated.
11. If a site plan approval is required, approval must be obtained from the Planning Board before the permit will be issued.
12. All construction requiring a permit must comply with the current National Fire Code.

D. Driveway Permit

1. A Driveway Permit issued by the Road Agent is required prior to issuance of a Building Permit by the Selectmen, or whenever a driveway, permanent or temporary, is constructed or altered.

E. House Numbering

1. All residents will be numbered effective six(6) months after approval by Town meeting. Minimum size to be 3"x5" numbers and clearly visible from the roadway. Subject to a \$25 fine for non-compliance.

ARTICLE III

The Board of Selectmen shall appoint a Board of Adjustment of five members, of whom one may be a member of the Planning Board. Said Board of Adjustment is to serve without compensation. Only the Board of Adjustment shall have authority to allow slight variances from the specific terms of this ordinance, where it can be shown that unnecessary hardship would otherwise result.

ARTICLE IV

This ordinance may be amended as provided by the New Hampshire Revised Statutes Annotated.

ARTICLE V

This ordinance does not affect in any way, any dwellings, buildings, trailers, or recorded lots that are existing or under construction at the time of its passage.

ARTICLE VI

Every person, persons, firm or corporation violating any of the provisions of this ordinance, shall be fined not more than twenty-five (\$25.00) dollars upon conviction, for each day such violation may exist. Upon any well-founded information that this ordinance is being violated, the Selectmen shall, upon their own initiative, take immediate steps to enforce the provisions of this ordinance.

ARTICLE VII

The invalidity of any provision of this ordinance shall not affect the validity of any other provision.

ARTICLE VIII

This ordinance shall take effect immediately upon its passage.

ARTICLE IX

- A. Any building constructed by the authority of a Building Permit issued after November 27, 1987, shall require a Certificate of Occupancy before it can be used as a dwelling, school or commercial establishment. The Certificate of Occupancy shall be issued by the Building Inspector only when the following minimum requirements have been met:
1. A New Hampshire State approved Septic System has been installed and approved by the N.H. Department of Environmental Services or, if the building has no running water, a State approved Privy has been installed and approved by the Health Officer.
 2. Two easily accessible exits have been provided in accordance with Section C-1 of this ordinance.
 3. If electricity is connected to the building, all wiring shall be in accordance with Section C-8 of this ordinance.
 4. Smoke detectors shall be installed, tested and working. Battery type may be used only when public utility electricity is not connected to the building.
 5. If a chimney is required, it shall be in accordance with Section C-2 of this ordinance.
 6. The roof shall be complete and watertight.
 7. No insulation shall be exposed in the living or working areas of the building.

8. Any special safety requirements of the New Hampshire Fire Marshall's Officer and/or the Fire Department shall be approved by the Fire Chief.
- B. The Board of Selectmen will approve the form to be used as a Certificate of Occupancy.

SUTTON FLOODPLAIN DEVELOPMENT ORDINANCE

As Voted and Passed at Town Meeting, March 1988
Amended March 8, 1994 & March 10, 1998

The following regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency in its "Flood Insurance Study for the City/Town of Sutton, NH" together with the associated Flood Insurance Rate Maps and Flood Boundary and Floodway maps of the City/Town of Sutton, dated May 17, 1977 which are declared to be a part of this Ordinance.

"This ordinance, adopted pursuant to the authority of RSA 674:16, shall be down as the Town of Sutton Floodplain Development Ordinance. The regulations in this ordinance shall overlay and supplement the regulations in the Town of Sutton Zoning Ordinance, and shall be considered part of the Zoning Ordinance for purposes of administration and appeals under state law. In any provision of this ordinance differs or appears to conflict with any provision of the Zoning Ordinance or other ordinance or regulation, the provision imposing the greater restriction or more stringent standard shall be controlling."

ITEM I DEFINITION OF TERMS:

"Area of shallow flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, or A99.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

"Basement" means any area of the building having its flood subgrade (below ground level) on all sides.

"Building" - see "structure".

"Development" means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters, and (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Boundary and Floodway Map" (FLOODWAY) is an official map of the community, on which the Federal Emergency Management Agency has delineated the "Regulatory Floodway". This map should not be used to determine the correct flood hazard zone or base flood elevation, the Flood Insurance Rate Map (FIRM) will be used to make determinations of flood hazard zones and base flood elevations.

"Flood elevation study" means an examination evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (ie, mudflow) and/or flood-related erosion hazards.

"Flood Hazard Boundary Map" (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A.

"Flood Insurance Rate Map" (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special hazard areas and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Flood plain" or "flood-prone area" means any land area susceptible to being inundated by water from any source.

"Flood proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - see "regulatory floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking and port facilities that are necessary for the loading/unloading of cargo or passengers, and ship building/repair facilities but does not include long-term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic Structure" means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior, or
 - (2) Directly by the Secretary of the Interior in states without approved programs.

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a

site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"100-year flood" see "base flood".

"Recreational vehicle" means a vehicle which is (i) built on a single chassis, (ii) 400 square feet or less when measured at the largest horizontal projection, (iii) designed to be self-propelled or permanently towable by a light duty truck, and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point. These areas are designated as flood ways on the Flood Boundary and Floodway Maps.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Special flood hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, and AH. (See Area of Special Flood Hazard.)

"Start of Construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its 'before damaged condition' would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure in which the cumulative cost equals or exceeds fifty percent of the market value of the structure. The market value of the structure should equal: (1) The appraised value prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. **This term includes structures which have incurred substantial damage, regardless of actual repair work performed.** The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

ITEM II

The Board of Selectmen shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, the applicant will present certification from a licensed professional engineer, that all new construction and substantial improvements shall (i) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, (ii) be constructed with materials resistant to flood damage, (iii) be constructed by methods and practices that minimize flood damages, and (iv) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

ITEM III

Where new and replacement water and sewer systems (including on-site systems) are proposed in flood-prone areas, the applicant shall provide the NH Department of Environmental Services with assurance that new and replacement sanitary sewage systems will be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems will be located to avoid impairment to them or contamination from them during periods of flooding. No building permits will be approved without an Approval for Construction from the NH Department of Environmental Services.

ITEM IV

The Town shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. If the structure has been floodproofed, the as built elevation (in relation to mean sea level) to which the structure was floodproofed. This information must be furnished by the applicant.

ITEM V

The Building Inspector shall review proposed developments to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

Prior to issuance of a building permit, it shall be the responsibility of the applicant to certify to the Board of Selectmen that all necessary governmental agency approvals have been received.

For all new or substantially improved structures located in special flood hazard areas, the applicant shall furnish the following information to the building inspector:

- (i) the as-built elevation (in relation to NGVD) of the lowest floor (including basement) and include whether or not such structures contain a basement.
- (ii) if the structure has been floodproofed, the as-built elevation (in relation to NGVD) to which the structure was floodproofed.
- (iii) any certification of floodproofing

The Building Inspector shall maintain for public inspection, and shall furnish such information upon request.

1. In riverine situations, prior to the alteration or relocation of a watercourse the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies required by the RSA 482-A:3. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as derermined by the Building Inspector, including notice of all scheduled hearings before the Wetlands Board.
2. The applicant shall submit to the Building Inspector, certification provided by a registered professional engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
3. The Building Inspector shall obtain, review, and reasonably utilize any floodway data available from Federal, State, or other sources as criteria for requiring that all development located Zone A meet the following floodway requirement:

"No encroachments, including fill, new construction, substantial improvements, and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge."

ITEM VI

The Building Inspector may establish from time to time reasonable fees to compensate the Town for the costs of consulting fees incurred. The fees will cover the costs of consultants hired by the Building Inspector to provide expertise on technical aspects of an application.

ITEM VII

In riverine situations, prior to the alteration or relocation of a watercourse, the applicant for such authorization shall notify the Wetlands Board of the New Hampshire Environmental Services Department and submit copies of such notification to the Board of Selectmen. Further, the applicant shall be required to submit copies of said notification to those adjacent communities as determined by the Board of Selectmen.

Within the altered or relocated portion of any watercourse, the applicant shall submit to the Building Inspector, certification provided by a registered professional engineer assuring that the flood carrying capacity of the watercourse has been maintained.

Along watercourses that have a designated Regulatory Floodway no encroachments, including fill, new construction, substantial

improvements, and other development are allowed within the designated Regulatory floodway that would result in any increase in flood levels within the community during the base flood discharge. In Zone A the Board of Selectmen shall obtain, review, and reasonably utilize any floodway data available from a Federal, State, or other source as criteria for requiring that development meet the floodway requirements of this section.

Along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

ITEM VIII

1. In special flood hazard areas the Town shall determine the 100 year flood elevation in the following order of precedence according to the data available:
 - a. In Zones A1-30, and AH, refer to the elevation provided in the communities Flood Insurance Study and accompanying FIRM or FHBM.
 - b. In unnumbered A zones the Town shall obtain, review, and reasonably utilize any 100 year flood elevation data available from Federal, State, development proposals submitted to the community (example subdivisions, site approvals, etc.) or other source.
 - c. In Zone AO the 100 year flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least two feet.
2. The Town's 100 year flood elevation determination will be used as criteria for requiring in Zones A1-30, AE, AH, AO and A that:
 - a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the 100 year flood level:
 - b. That all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the 100 year flood level; or together with attendant utility and sanitary facilities, shall:

- (i) be floodproofed so that below the 100 year flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - (iii) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section.
- c. All manufactured homes to be placed or substantially improved within special flood hazard areas shall be elevated on permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- d. Recreational vehicles placed on sites within Zones A1-30, AH, and AE shall be either:
 - (i) on the site for fewer than 120 consecutive days,
 - (ii) fully licensed and ready for highway use, or
 - (iii) meet all standards of Section 60.3 (b) (1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for "Manufactured Homes" in paragraph (c) (6) of Section 60.3.
- e. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:
 - (i) the enclosed area is unfinished or flood resistant, useable solely for parking of vehicles, building access or storage;
 - (ii) the area is not a basement;
 - (iii) shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect.

- f. Proposed structures to be located on slopes in Special Flood Hazard Areas, Zones AH and AD, shall include adequate drainage paths to guide flood waters around and away from the proposed structures.

ITEM IX Variances and Appeals:

1. Any order, requirement, decision or determination of the building inspector made under this ordinance may be appealed to the Zoning Board or Adjustments as set forth in RSA 676:5.
2. If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing in addition to the usual variance standards under state law:
 - (a) That the variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense.
 - (b) That if the required variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result.
 - (c) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. The Zoning Board of Adjustments shall notify the applicant in writing that(i) the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii)such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
4. The community shall (i)maintain a record of all variance actions, including their justification for their issuance, and (ii)report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.